

EXHIBIT

A



OFFICE OF THE
ATTORNEY GENERAL OF TEXAS

Veasey, et al. v. Abbott, et al.



Case 2:13-cv-00193 Document 1005-1 Filed 03/01/17 in TXSD Page 3 of 35

Scope Of Court's Inquiry On Remand

216

830 FEDERAL REPORTER, 3d SERIES

HR department is AFFIRMED. The case is REMANDED for further proceedings. We express no view on the ultimate merits or on what decisions the court should make on remand. We rule only on the basis of the summary-judgment record filed in this appeal.



Marc VEASEY; Jane Hamilton; Sergio Deleon; Floyd Carrier; Anna Burns; Michael Montez; Penny Pope; Oscar Ortiz; Koby Ozias; League of United Latin American Citizens; John Mellor-Crummey; Ken Gandy; Gordon Benjamin; Evelyn Brickner, Plaintiffs-Appellees

Texas Association of Hispanic County Judges and County Commissioners, Intervenor Plaintiffs-Appellees
v.

Greg ABBOTT, in his Official Capacity as Governor of Texas; Carlos Cascos, Texas Secretary of State; State of Texas; Steve McCraw, in his Official Capacity as Director of the Texas Department of Public Safety, Defendants-Appellants

United States of America,
Plaintiff-Appellee

Texas League of Young Voters Education Fund; Imani Clark, Intervenor Plaintiffs-Appellees
v.

State of Texas; Carlos Cascos, Texas Secretary of State; Steve McCraw, in his Official Capacity as Director of the Texas Department of Public Safety, Defendants-Appellants

Texas State Conference of NAACP Branches; Mexican American Legislative Caucus, Plaintiffs-Appellants

Carlos Cascos, Steve McCraw, in his Official Capacity as Director of Public Safety, Defendants-Appellants

Lenard Taylor, Lionel Estrada, Margarita Martinez, Pueblo Entretenimiento, Defendants-Appellees

State of Texas, Secretary of State, in his Official Capacity as Director of the Texas Department of Public Safety, Defendant

United States of America, Plaintiff-Appellee

Background: Several advocacy groups based in Texas challenged the legality of state-mandated forms of identification at polls. The United States District Court for the Southern District of Texas, Nelva Gonzales Ramos, J., 71 F.Supp.3d 627, invalidated the law and the state appealed. The Court of Appeals, Haynes, Circuit Judge, 796 F.3d 487, affirmed in part, vacated in part, and remanded in part. Rehearing en banc was granted, 815 F.3d 958.

“The district court should then reevaluate the evidence relevant to discriminatory intent and determine anew whether the Legislature acted with a discriminatory intent in enacting SB 14.”

Veasey, et al. v. Abbott, et al., 830 F.3d 216, 272 (5th Cir. 2016) (emphasis added).



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Direct Evidence From SB 14 Proponents

- ▶ Bill sponsors and proponents for SB 14 repeatedly stated that its purpose was to deter and detect voter fraud and safeguard voter confidence in the electoral system.

Case 2:13-cv-00193 Document 588 Filed in TXSD

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI

MARC VEASEY, ET AL.,)
Plaintiffs,)
vs.)
RICK PERRY, ET AL.,)
Defendants.)

BENCH TRIAL
BEFORE THE HONORABLE NE
UNITED STATES DI

Appearances: See Next
Court Recorder: Genay Ro
Clerk: Brandy Co
Court Security Officer: Adrian Pe
Transcriber: Exceptional
P.O. Box 2
Corpus Ch
361 949-2

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transcript produced by transcription
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Senator Fraser: “The purpose was to protect the integrity of the voting box.”

Trial Tr. 416:5-6 (Sept. 10, 2014) (Fraser) (ROA.101178).

Lt. Gov. Dewhurst: “It was the intent of the Legislature—it was the intent of the Lieutenant Governor, to pass . . . a photo voter I.D. bill which reduced fraud, and . . . to improve the confidence by the voters in Texas in our election process. . . .”

Trial Tr. 39:19-40:6 (Sept. 10, 2014) (Dewhurst) (ROA.100801-02).

Representative Harless: “Only a true photo ID bill can deter and detect fraud at the polls and can protect the public’s confidence in the election.”

DEF0001 (H.J. of Tex., 82d Leg., R.S. 918 (Mar. 23, 2011) (ROA.70855)).



Direct Evidence From SB 14 Opponents

- ▶ Legislators and their staff uniformly denied that SB 14 was enacted for a discriminatory purpose.
 - **Representative Anchia** – Did not hear anyone make a statement, in public or private, suggesting that SB 14 had a discriminatory intent. (ROA.99972-73)
 - **Senator Davis** – Did not hear anyone make a statement, in public or private, suggesting that SB 14 had a discriminatory intent. (ROA.99655-56)
 - **Representative Veasey** – Admits he has no evidence that any House member, other than Representative Berman, voted for SB 14 for the purpose of harming minority voters, and that he has no evidence that any member of the Senate voted for SB 14 for a discriminatory purpose. (ROA 68797-98)



Voter ID Opponents In Their Own Words

Senator Whitmire: “I don’t ... think you want to disenfranchise anybody.”

(DEF0001 (Debate on S.B. 14 in the Senate Committee of the Whole, 82d Leg., R.S., 64:5-8 (Jan. 25, 2011)) (ROA.68948)).

Senator Fraser: “I want to make sure that the groups you’re talking about, you know, women, minority, elderly, that they all have the right to vote; and I believe my bill does that.”

Senator Ellis: “Okay. And I know that’s your intent.”

(DEF0001 (Debate on S.B. 14 in the Senate Committee of the Whole, 82d Leg., R.S., 201:6-10 (Jan. 25, 2011)) (ROA.68983)).

Representative Giddings: “To Representative Brown and my good friend, Leo Berman, and my committee members, Mr. Bohac and others who have worked on this bill, let me say from the very beginning that I know that your intentions here are good and honorable, and I want to say that again. I truly believe that your intentions are good and honorable, and I believe it is a sincere attempt on your part to stop voter fraud.”

(DEF0002 (Debate on Tex. H.B. 218 on the Floor of the House, 80th Leg., R.S., 3:5-13 (April 24, 2007) (ROA.76853)).



Arlington Heights Factors

- ▶ Historical background of the decision
- ▶ Specific sequence of events leading up to the challenged decision
- ▶ Departures from the normal procedural sequences
- ▶ Substantive departures
- ▶ Legislative history



The Legislature Did Not Have Knowledge Of Disparate Impact

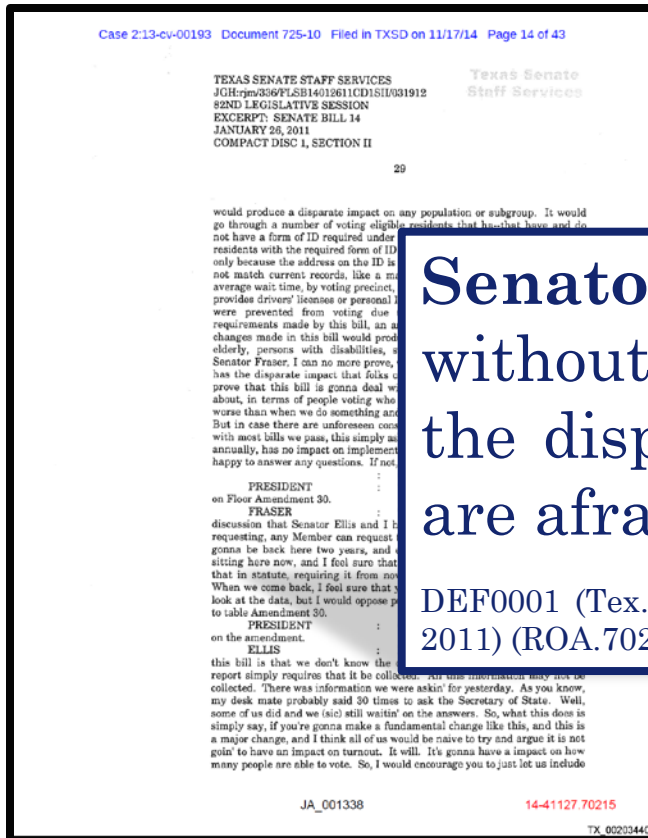
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- ▶ Elections Division Director of Secretary of State of Georgia testified that in the 16 elections Georgia had since implementing its voter ID law his office never received a single complaint that anyone was disenfranchised. (ROA.74975-76)
- ▶ Indiana Secretary of State testified that “there’s been scant evidence of disenfranchisement or discrimination in Indiana.” (ROA.69000)
- ▶ The Texas Legislature also learned that similar voter ID laws did not result in disenfranchisement as the opponents of those laws—just like opponents of SB 14—predicted. (ROA.73665, 73685, 73703)
- ▶ The Texas Legislature considered real-world empirical studies—as opposed to statistical estimates—showing that requiring voters to prove their identity with a photo ID did not negatively affect the ability of those entitled to vote. (ROA.73369, 73417, 73423)



The Legislature Did Not Have Knowledge Of Disparate Impact

- Legislators were unaware that SB 14 would have a discriminatory impact on minority voters.



Senator Ellis: “I can no more prove, without [S.B. 14] being in effect, that it has the disparate impact that folks on my side are afraid of.”

DEF0001 (Tex. Leg., Senate Committee of the Whole, 82d Leg., R.S., at 28 (Jan. 26, 2011) (ROA.70215)).



The Legislature Did Not Have Knowledge Of Disparate Impact

- ▶ Legislators were unaware that SB 14 would have a discriminatory impact on minority voters.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

MARC VEASEY, ET AL.,)
)
Plaintiffs,)
)
vs.)
)
RICK PERRY, ET AL.,)
)
Defendants.)

BENCH TRIAL
BEFORE THE HONORABLE MR. JAMES L. HANCOCK
UNITED STATES DISTRICT COURT

Appearances: See Next
Court Recorder: Genay R
Clerk: Brandy C
Court Security Officer: Adrian P
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14-41127.100763

Lt. Gov. Dewhurst: “Mr. Hebert was told that [SOS was] having difficulty in taking the list of driver’s licenses in the DPS silo and the number of registered voters and names in the Secretary of State’s Office and matching them. I don’t understand why, but I was told that.”

Trial Tr. 72:21-25 (Sept. 10, 2014) (Dewhurst) (ROA.100834).



The Legislature Did Not Have Knowledge Of Disparate Impact

Case 2:13-cv-00193 Document 578 Filed in TXSD on 09/11/17

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

MARC VEASEY, ET AL.,)
Plaintiffs,)
vs.)
RICK PERRY, ET AL.,)
Defendants.)

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Corpus Christi, Texas

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BENCH TRIAL - DAY
BEFORE THE HONORABLE NELVA G. GUTIERREZ
UNITED STATES DISTRICT COURT

Appearances: See Next Page
Court Recorder: Genay Rogan
Clerk: Brandy Cortez
Court Security Officer: Adrian Perez
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Rep. Smith testified that he remembered estimating that roughly 700,000 Texas voters lacked a driver's license.

Trial Tr. 327:11-329:7 (Sept. 8, 2014) (Smith) (ROA.100321-23).

This testimony proves nothing:

- No evidence that any legislator received this estimate.
- This estimate says nothing about the racial makeup of the group of voters lacking a driver's license.
- Driver's licenses are only one type of SB 14 ID.

14-41127.99995



The Legislature Did Not Have Knowledge Of Disparate Impact

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CONSIDERATION OF SENATE BILL

197
1 SEN. FRASER: Okay.
2 SEN. ELLIS: Let me ask you this: There's
3 an article in today's paper. It says nearly 400,000
4 Texans who refuse to pay surcharge penalties for drunken
5 driving, no insurance, and other violations are being
6 offered a one-time amnesty by the state. Those offered
7 amnesty represent just over half of the estimated
8 1.2 million Texans in default. It talks about what they
9 see the state. But all of these folks who are in
10 default, because we balanced the budget in '02 with
11 surcharges for people who have a license, all have had
12 their licenses suspended for not paying. So would that
13 concern you any that, at least, according to folks who
14 go get amnesty, that's 1.2 million. That would be more
15 than that. There's 1.2 million owe the state \$ amount.
16 That's what this article is about.
17 But would you concede it ought to be a
18 problem because we've got a lot of people who had a
19 driver's license, I assume the ones who owe the
20 surcharges are -- you know, maybe a disproportionate
21 number of them are folks who didn't have the money to
22 pay the surcharges. Maybe some of them were just civil
23 libertarians, didn't like the bill and wouldn't pay it
24 period. But a lot of them are probably working-class
25 people who can't pay it. So at least over 1.2 million
198
1 Texas since 2003 have gotten their licenses suspended,
2 so they will no longer have a valid driver's license
3 that they could use to go and vote like you and I do.
4 Does that concern you?
5 SEN. FRASER: Well, first of all, if -- if
6 some reason it's a felony, that -- of the crime that
7 they're not paying for, I'm not sure that they -- I
8 guess it'd question whether they're eligible. I don't
9 know the answer. We'd ask the secretary of state that.
10 SEN. ELLIS: I don't think --
11 SEN. FRASER: But the easy answer to your
12 question is, we're going to give them an ID free. So if
13 they're lost their driver's license, all they got to do
14 is go back down and get a free ID. We'll hand them a
15 new one.
16 SEN. ELLIS: So you think the over
17 1.2 million people who had their licenses suspended
18 because of the surcharges this legislature put on them
19 in 2003 is not -- they haven't been convicted of -- of
20 a felony. That's not on their record, but their license
21 has been suspended. They're being offered amnesty,
22 according to the article in today's paper. You think
23 that those folks would go and get this new ID? You
24 don't think they'd be worried about showing up and
25 somebody saying, "Hey, by the way, now that I know where

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Senator Ellis: Are you confident, Senator, that your bill would not have a disparate impact . . . on racial ethnic minorities?

Senator Fraser: I am --

Senator Ellis: Are you confident?

Senator Fraser: -- absolutely sure. I would not have filed the bill if I had thought it—I want to make sure that every person in the state has a right to vote. . . . [A]nd I do not believe that in any way we're impacting that and that—that—you know, I want to make sure that the groups you're talking about, you know women, minority, elderly, that they all have the right to vote and I believe my bill does that.

Senator Ellis: Okay. And I know that's your intent.

Senator Fraser: Yes.

Senator Ellis: But you're confident that it will have no impact?

Senator Fraser: I'm very confident.



The Legislature Did Not Have Knowledge Of Disparate Impact

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House Chambers Floor Debate, 2nd March 21, 2011

36

1 REPRESENTATIVE

2 two additional years to
3 working in other states
4 additional years to hear
5 concerns of the integrity

6 Only a true police force
7 detect fraud at the police
8 public's confidence in

9 REPRESENTATIVE
10 it possible that Latino
11 Texas will be put in a
12 electoral power as a result

13 REPRESENTATIVE
14 with all my heart this
15 all voters in the State

16 REPRESENTATIVE
17 if you're wrong? Are there
18 safeguards in the bill
19 example, a sunset (phone
20 that there's substantial
21 Americans and Latinos to
22 the bill?

23 REPRESENTATIVE
24 states that have passed
25 similar bills that -- to

Representative Harless: We've had two additional years to see that photo ID is working in other states. . . .

Representative Anchia: Is it . . . it possible that Latinos and African Americans in Texas will be put in a worse position in terms of electoral power as a result of Senate Bill 14?

Representative Harless: I believe with all my heart this bill will increase turnout of all voters in the State of Texas. . . . In the two states that have passed this type of voter—similar bills that—to our bill, they have showed increased in election for the minorities And I think that we will see the same results in Texas. This will increase turnout of all voters because of the restored confidence that their vote counts.



Historical Background

- ▶ Plaintiffs' reliance on acts by long-dead legislators occurring decades ago is not probative of legislative intent in 2011.
- ▶ Examples of purported discrimination by local jurisdictions and private entities in Texas are not probative of whether the Texas Legislature enacted SB 14 with a discriminatory purpose.
- ▶ Voting-related lawsuits and preclearance objection letters are not evidence of "official actions taken for an invidious purpose."



Specific Sequence Of Events Leading To SB 14

Higher powers motivated the Texas Legislature to enact voter ID legislation:

- ▶ HAVA
- ▶ Carter-Baker Commission
- ▶ *Purcell v. Gonzalez*
- ▶ *Crawford v. Marion County Election Board*
- ▶ Adoption of voter ID requirements by other states



Other States Adopted Election Reforms

- ▶ 2005 – Georgia and Indiana
- ▶ 2006 – Missouri and Ohio
- ▶ 2010 – Oklahoma
- ▶ 2011 – Legislation introduced in 34 states, including: Kansas, Tennessee, South Carolina, Wisconsin, Texas, Minnesota, Missouri, Montana, New Hampshire, and North Carolina



Specific Sequence Of Events Leading To SB 14

Higher powers motivated the Texas Legislature to enact voter ID legislation:

- ▶ HAVA
- ▶ Carter-Baker Commission
- ▶ *Purcell v. Gonzalez*
- ▶ *Crawford v. Marion County Election Board*
- ▶ Adoption of voter ID requirements by other states
- ▶ Public opinion supported voter ID requirements



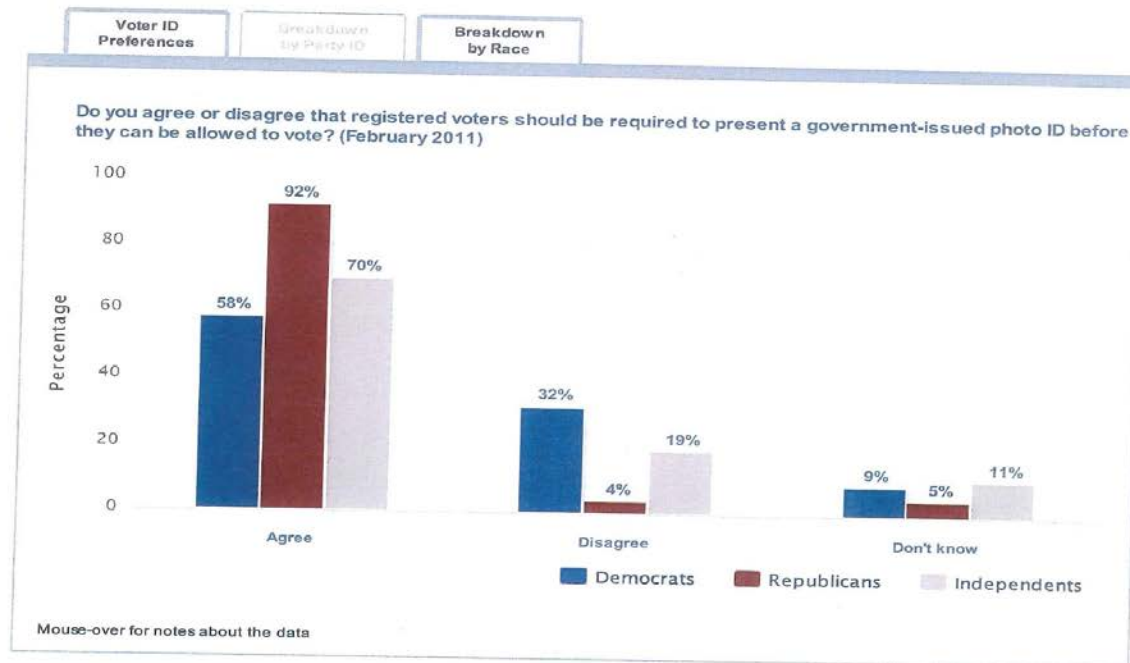
Broad Support In Texas In Favor Of Voter ID

7/21/2014

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Texas Politics

Voter Identification (February 2011)



ROA.87387

http://www.laits.utexas.edu/bp_media/html/poll/features/201102_voter_id/slide2.html

58% of Democrats favored a photo-voter ID law.



Broad Support In Texas In Favor Of Voter ID

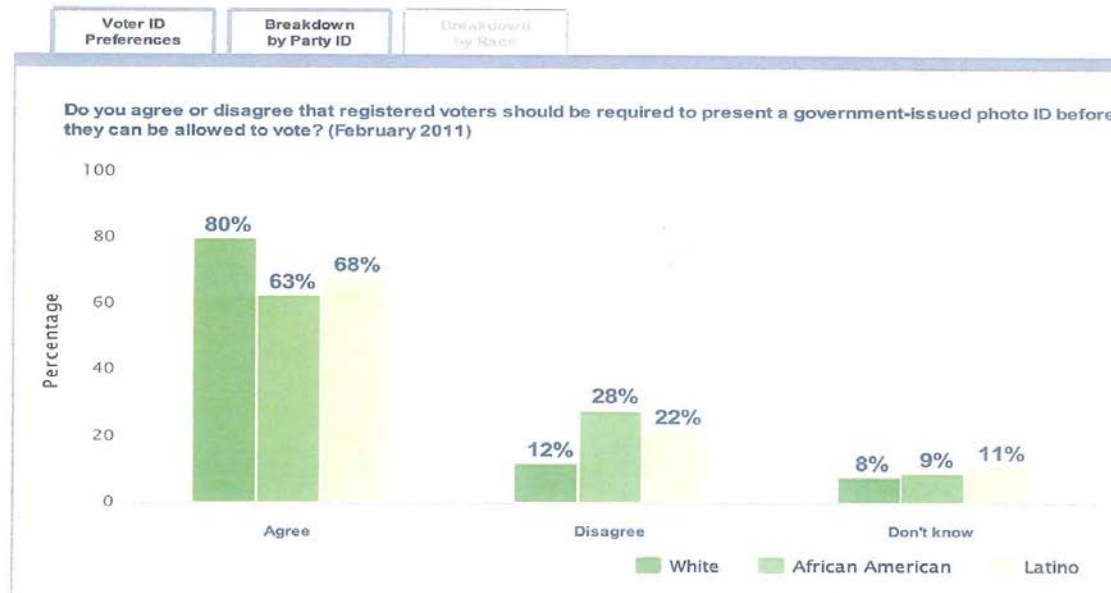
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7/21/2014

Case 2:13-cv-00193 Document 749-22 Filed in TXSD on 11/18/14 Page 3 of 3

Texas Politics

Voter Identification (February 2011)



ROA.87388

http://www.iaits.utexas.edu/bp_media/html/poll/features/201102_voter_id/slide3.html

68% of Latinos and 63% of African-Americans favored a photo-voter ID law.



SB 14 Was Not A Reaction To Changing Demographics In Texas

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- ▶ The timing of HB 1706 (2005) demonstrates that voter ID proponents could not have been motivated by the demographic shift.
 - Census Bureau's first announcement regarding Texas's status as a majority-minority state was in August 2005.
 - The Legislature introduced HB 1706 at the beginning of the 2005 session.



The Legislative Road To SB 14

2001

HB 744
Democrat
introduces
first voter ID
bill.

2003

Legislature
enacts laws to
strengthen
and
modernize the
election
system.

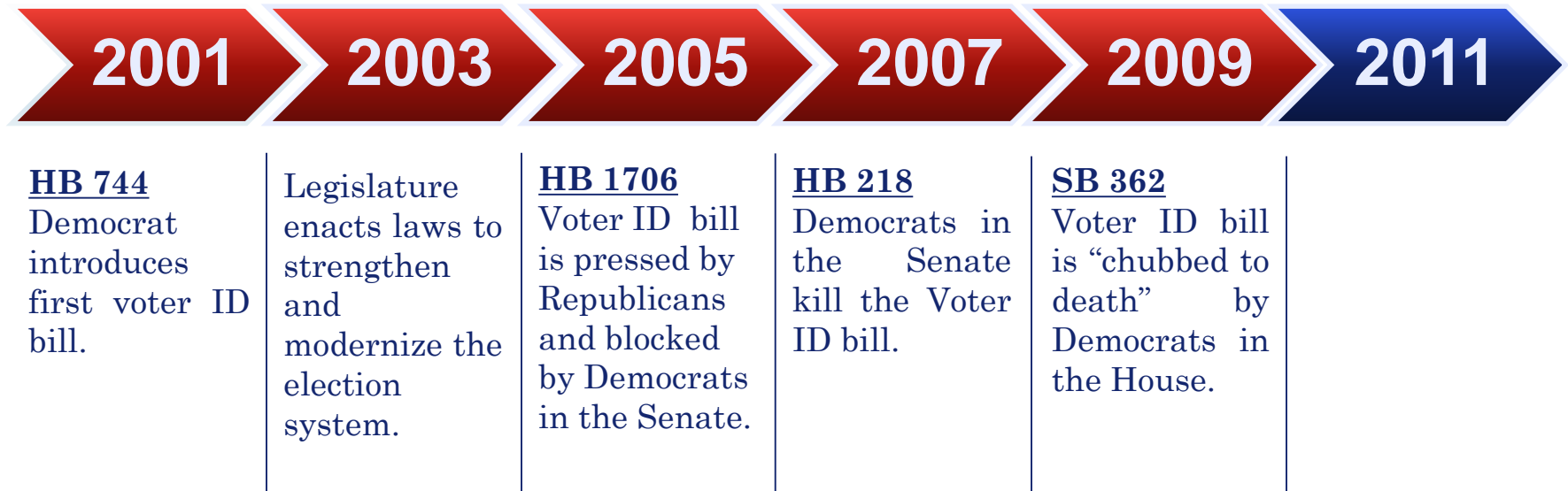


Mail-In Voter Fraud

- ▶ The Legislature prioritized mail-in ballot fraud before it addressed in-person voter fraud in SB 14.
 - 2003 Legislative Session: HB 54
 - 2007 Legislative Session: HB 1987, SB 90
 - 2011 Legislative Session: HB 2449



The Legislative Road To SB 14





SB 14's "Procedural Departures" Had Nothing To Do With Discrimination

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- ▶ Governor's designation of SB 14 as an emergency item
- ▶ Designation of SB 14 as a special calendar item in the Senate
- ▶ Disbanding the two-thirds rule in the Senate
- ▶ Senate's use of the Committee of the Whole
- ▶ Inclusion of a fiscal note



Rejection of Amendments To SB 14 Is Not Evidence Of An Intent To Discriminate

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- ▶ Many ameliorative amendments proposed by Democrats were adopted in the Texas Senate.
 - Senator Hinojosa proposed an amendment to allow concealed handgun permits to be used as voter ID. This was adopted unanimously. (ROA.70125)
 - Senator Lucio offered an amendment to allow the use of certain expired IDs. This was adopted unanimously. (ROA.70129)
 - Senator Davis proposed an indigent affidavit exception. Although she withdrew the amendment, it was incorporated into a more comprehensive amendment offered by Senator Duncan. The amendment was adopted unanimously by the Senate. (ROA.70141)



Other Amendments Were Rejected For Legitimate Reasons

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Case 2:13-cv-00193 Document 725-10 Filed in TXSD on 11/17/14 Page 5 of 43

TEXAS SENATE STAFF SERVICES
JGH:rjm/336/FLSB14012611CD15IL031912
82ND LEGISLATIVE SESSION
EXCERPT: SENATE BILL 14
JANUARY 26, 2011
COMPACT DISC 1, SECTION II

Texas Senate
Staff Services

20

Gallegos to explain Floor Amendment 25.

GALLEGOS : Thank you, Mr. Chairman. Mr. President, Members, this amendment, Members, requires at least one DPS office, if you've got, if everybody's got their map of Houston that's being passed out, that processes drivers license and personal ID cards be established for every 15 voting precincts in the area. Members, there's a, almost, there's over 900 precincts in Harris County, and almost 800 of those are inside the city. And, what this does, this would not close down any existing offices but, as you see, inside the 610 Loop, on the map that I have passed out, there, there, there's none. Zero DPS centers in that area. And, I, Members, mo-mobility and personal transportation tend to be directly related to, really, personal wealth and citizens that tend to be in that district are below that, and are less likely to have a car, and are less likely to have a driver's license. And, studies have shown that the most likely to be without transportation and as a result, additional economic burdens in the form of transportation for Texans that is, that-at the worst position to deal with this bill mandates every Texan to have a photo ID the way that we have access, especially in Houston, and, I didn't pass out a map that's almost similar. Dallas only has one, Senator West.

: (Yeah.)

GALLEGOS : Fort Worth, San Antonio, Austin, none inside, and in, and in, for the, for those from San Antonio and those are at the edge of the outlying areas. So, is, I mean, seeing is believing and you see the map of Houston. There's no DPS centers inside 610. Those of you who, who, who, Houston, that know Houston, inside the 610 is huge. I just, there's almost 800 precincts in this area. And no DPS centers in this area. If we're gonna mandate to Texans that they must have a photo ID, then we, we deserve to, to pre-provide them with access, whether it be Houston, Dallas, Fort Worth, San Antonio, or anywhere. Senator Uresti's area, those area, we must provide them with access. And, at least on a bus route where they can at least pay a bus to get to that location. Not a single one in Houston, Texas, Members, is the map that I'm showing you in front of you. And for that I'm asking that, that my amendment, an-and I'm, I move on my amendment Mist-Mr. Chairman, Mr. President.

PRESIDENT : Thank you, Senator Gallegos. The Chair recognizes Senator Fraser on Floor Amendment 25.

FRASER : Senator, we, we appreciate your, your, your effort to move forward on this and we wanna make sure that every person given the right to get an ID and-and, an-and vote, but I don't think Senate Bill 14 is the appropriate vehicle to debate DPS operations. I think it's probably likely to be with your suggestion. There's a, probably a large expense connected with it that would have to be looked at by the Finance Committee. And, based on that, I would move to table Amendment 25.

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uing documents used to obtain
h certificate.

4's impact on voters
photo ID

Senator Fraser: "I don't think
Senate Bill 14 is the appropriate
vehicle to debate DPS operations."



Other Amendments Were Rejected For Legitimate Reasons

Case 2:13-cv-00193 Document 588 Filed in TXSD on 09/11/14 Page 1 of 423

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

MARC VEASEY, ET AL.,)
Plaintiffs,)
vs.)
RICK PERRY, ET AL.,)
Defendants.)

CASE NO. 13-00193
Courtroom 10
Wednesday, September 10, 2014
(7:55 AM)
(1:00 PM)

Lt. Gov. Dewhurst: “[I]t was my intent during the implementation, once the bill had passed -- during the implementation of the bill by the agencies to reduce that cost.”

BENCH TRIAL - DAY 7

BEFORE THE HONORABLE NELVA GONZALES RAMOS,
UNITED STATES DISTRICT JUDGE

Appearances: See Next Page
Court Recorder: Genay Rogan / Lori Cayce
Clerk: Brandy Cortez
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Corpus Christi, TX 78480-8668
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14-41127.100763



Other Amendments Were Rejected For Legitimate Reasons

Case 2:13-cv-00193 Document 715-11 Filed in TXSD on 11/14/14

TOMMY WILLIAMS
HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

Sen. Williams:

1 of photo ID?
2 A. I don't recall that I cared for this
3 provision. It was a part of the bill, but I'm not
4 sure that I -- I don't necessarily agree with every
5 provision of every bill, so...
6 Q. Fair enough.
7 Can you tell me why you might not have agreed
8 with this particular provision.
9 A. I think, you know, it makes it a lot more
10 difficult for the people who are working at the polls
11 to identify -- to know whether it's a valid ID or not,
12 because we have 38 general academic institutions in
13 this state and we have a bunch of health science
14 centers and a lot of people that are issuing student
15 ID cards, including all of our community colleges; and
16 so I think it becomes very difficult for someone at
17 the poll to know whether that's actually a valid ID or
18 not.
19 Q. Would the -- would you have the same opinion
20 of the ID listed in Number 3 there, a valid employee
21 identification card?
22 A. Yeah.
23 Q. Number 7 is a license to carry a concealed
24 handgun, correct?
25 A. Correct.

1 Q. So there are seven different forms of
2 photographic identification that were acceptable under
3 HB 218 in this version, correct?
4 A. Correct.
5 Q. And then if you look at Subsection (b), there
6 are 11 different forms of nonphoto ID that were
7 acceptable under this version of the legislation,
8 correct?
9 A. I have to read it.
10 Q. Sure.
11 A. Actually, I -- let's see. Yeah, there are
12 11. That's correct.
13 Q. And do you recall discussing in committee any
14 of these forms of nonphoto identification?
15 A. I don't have a specific recollection, no.
16 Q. Is there any reason that these forms of photo
17 identification would not have been acceptable?
18 A. I don't think they're particularly good forms
19 of identification.
20 Q. And is it your opinion that the only form of
21 identification that can truly identify or verify who a
22 person is is a photo identification?
23 A. I think that the way it was listed in Senate
24 Bill 1 was -- excuse me, Senate Bill 14 was, there
25 were primary forms of identification and secondary

1 forms of identification.
2 more reason
3 before you is
4 so...
5 Q. Okay.
6 forms of identification
7 to obtain an ID
8 A. Right.
9 Q. -- for
10 A. That's
11 Q. Where
12 you could act
13 nonphotograph
14 A. Under
15 Bill 18 [sic].
16 Q. And can you tell me why it is that you don't
17 think any of these forms, these 11 forms of nonphoto
18 ID listed in this version of HB 218, would be
19 sufficient to identify or verify a person's identity?
20 A. Primarily, it makes it very difficult for the
21 person who's working at the polls -- they have so many
22 things that they have to look at -- and they don't
23 know whether it's a valid document or not.
24 Q. Do poll workers have a way to determine
25 whether a particular license is a valid license?

1 MS. DONNELLY: Objection. Form.
2 A. I don't know.
3 Q. (BY MS. RUDD) Do poll workers have a way to
4 verify whether a particular Texas ID card is actually
5 what it purports to be?
6 MS. DONNELLY: Objection. Form.
7 A. I don't know the answer to that.
8 Q. (BY MS. RUDD) HB 218 ultimately didn't get
9 considered on the floor of the Senate, is that
10 correct?
11 A. That's correct.
12 Q. Senator Fraser made a motion to consider
13 HB 218 outside the regular course of business,
14 correct?
15 A. I believe he made a motion to suspend the
16 regular order of business to take up and consider
17 House Bill 218.
18 Q. And when you say "the regular order of
19 business," that's the sort of default calendar in the
20 Senate, correct?
21 A. The regular order of business is the order of
22 the bill -- the order that bills came out of committee
23 numerically and by time, when they were voted out of
24 committee. That's the regular order of business out
25 of the Substantive Committee.



The House Removed The Indigent Affidavit Exception At The Insistence Of Democrats

- ▶ The House removed the provision in the Senate version of SB 14 that allowed the indigent to vote without a photo ID by swearing an affidavit of their indigency.

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House Floor Debate - Volume 1

March 23

1 because I think it would be a significant improvement.
2 I fear that your bill is worse than current
3 law and really undermines the argument that this is about
4 ballot integrity because suddenly you have a mechanism
5 where people can come in and never show anything and not
6 be on the list and the ballot board shall accept their
7 their -- their ballot. It's not even a "may" anymore.
8 You changed it to "shall."
9 MS. HARLESS: They have six days to prove
10 who they are, and the ballot board at that point --
11 MR. ANCHIA: But they don't have to prove
12 who they are. They just say they have a religious
13 objection or are indigent. They never really prove who
14 they are, do they?
15 MS. HARLESS: My understanding is that they
16 have six days to cure and their ballot will get counted
17 MR. ANCHIA: They have six days to cure.
18 So, they can execute that second affidavit and
19 ultimately -- and ultimately vote without ever having
20 shown ID. Right?
21 MS. HARLESS: I'm more than happy to look
22 at your amendment if you want to offer an amendment.
23 MR. ANCHIA: Okay. Yeah, I'm definitely
24 going to have an amendment. So, thank you.
25 MS. HARLESS: Move to table.

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3 law and really undermines the argument that this is about
4 ballot integrity because suddenly you have a mechanism
5 where people can come in and never show anything and not
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9 MS. HARLESS: They have six days to prove
10 who they are, and the ballot board at that point --

Representative Anchia urged the Texas House to eliminate an indigency-affidavit procedure.



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No Evidence Of Shifting Rationales

Case 2:13-cv-00193 Document 666-5 Filed in TXSD on 11/11/14 Page 7 of 9/2/2014
PL275
2:13-cv-00193

From: Bryan Hebert
Sent: Monday, January 24, 2011 10:04 AM
To: Jason Baxter; Amanda Montagne; Ryan LaRue_SC
Subject: RE: Voter ID Talking Points & Analysis

Some of that is fine, but avoid talking about illegals and registration. We are not doing this to crack down on illegals, but to generally strengthen the security and integrity of the voting process. This is a bill about voting, not registering (though some mention of registration fraud is useful to show that fraud exists generally in the system).

Bryan Hebert
Deputy General Counsel
Office of the Lieutenant Governor
512-463-0001

From: Jason Baxter
Sent: Monday, January 24, 2011 10:00 AM
To: Amanda Montagne; Ryan LaRue_SC
Cc: Bryan Hebert
Subject: FW: Voter ID Talking Points & Analysis

FYI

From: Brent Connett [mailto:brent@txccc.org]
Sent: Monday, January 24, 2011 9:57 AM
To: brent@txccc.org
Cc: bnm@txccc.org
Subject: Voter ID Talking Points & Analysis

Senators,

In advance of your Committee of the Whole Senate meeting today, please see the attached document on election integrity. The piece recommends:

The Legislature must secure the integrity of elections by verifying the citizenship of voters requiring a photo ID to vote, removing non-qualified voters from voter registration, and ensuring ballot security.

In addition to providing recommendations and talking points, this paper provides background on successful voter identification laws in Georgia and Indiana.

Sincerely,

Brent Connett
Texas Conservative Coalition
512-474-1798 (office)
512-799-8360 (cell)
txccc.org
facebook.com/txconservativecoalition



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“We are not doing this to crack down on illegals, but to generally strengthen the security and integrity of the voting process.”



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No Evidence Of Shifting Rationales

Case 2:13-cv-00193 Document 666-4 Filed in TXSD on 11/11/14 Page 7 of 12

TALKING POINTS (§2R)

I. THE THREAT OF FRAUD IS REAL

- Deceased voters, felons, duplicate registrations, and non-residents remain on voter rolls (2007 State Auditor report found over 49,000 of these possible ineligible voters)
- Fraudulent registration applications are rampant (over 6,000 applications by non-citizens rejected in Harris County from 2004-2007, 2008 ACORN and 2010 Houston Votes registration scandals made national news)
- Texas Election Administration Management (TEAM) system is improving, but continues to have accuracy problems
- Current election system is inadequate to catch in-person voting fraud

II. THIS BILL PROTECTS TEXAS VOTERS

- Deters and detects fraud
- Improves and modernizes election procedures
- Protects against fraud enabled by inaccurate registration rolls
- Counts only eligible voters' votes
- Protects public confidence in elections

(These points are taken directly from Supreme Court opinion describing Indiana's "legitimate state interests" in adopting photo ID)

III. THIS BILL REPRESENTS AN ATTEMPT TO ENSURE THAT EVERY VOTER CAN VOTE AND THAT ONLY LEGITIMATE VOTES ARE

- Simplified bill requires photo ID
- includes exemption for voters over 70 and a procedure for counting ballots
- Similar to Indiana and Georgia laws (which were both upheld by the authorities)
- Requires months of statewide voter education efforts before law takes effect

The talking points from Hebert continued to highlight the problem of “non-citizen[]” registrants.

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Concerns About Preclearance Are Not Evidence of Discriminatory Purpose

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PL267

1/17/2014

2:13-cv-00193

552:111

Frank Battle

From: Bryan Hebert
Sent: Wednesday, January 19, 2011 2:55 PM
To: Bryan Hebert
Subject:

Blaine mentioned that your boss had some concerns about whether Fraser's voter ID bill complied with the Voting Rights Act. As you know, all changes to Texas election law have to be pre-cleared by the DOJ or the DC Circuit Court. The good news is that the US Supreme Court has already upheld a similar photo ID law in Indiana. Below are some notes I prepared last session that incorporate parts of the Court's findings in that case. Let me know if you want to chat more.

-----Original Message-----
From: Bryan Hebert
Sent: Thursday, January 19, 2011 2:55 PM
To: Noe Barrios
Subject: voter ID

Noe -

Blaine mentioned that your boss had some concerns about whether Fraser's voter ID bill complied with the Voting Rights Act. As you know, all changes to Texas election law have to be pre-cleared by the DOJ or the DC Circuit Court. The good news is that the US Supreme Court has already upheld a similar photo ID law in Indiana. Below are some notes I prepared last session that incorporate parts of the Court's findings in that case. Let me know if you want to chat more.

ENSURING COMPLIANCE WITH SUPREME COURT

- I. LEGITIMATE STATE INTERESTS
 - Deterring and detecting fraud
 - Improving and modernizing election procedures
 - Protecting against fraud enabled by inaccurate registration rolls
 - Counting only eligible voters' votes
 - Protecting public confidence in elections
- II. MEASURES REQUIRED TO OFFSET BURDENS ON VOTERS
 - Access to free photo ID cards
 - Availability of provisional ballots and absentee ballots
 - Ensure that obtaining ID is no more inconvenient or burdensome than usual act of voting
- III. MEASURES RECOMMENDED TO OFFSET BURDENS ON VOTERS
 - Phase-in over two election cycles (as prescribed by Carter-Baker Report)
 - Exception for certain elderly voters (to decrease size of class of voters adversely impacted by law)

Bryan Hebert
Deputy General Counsel
Office of the Lieutenant Governor
512-463-0001



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A concern about preclearance is evidence that the Legislature acted with a proper purpose, not a discriminatory purpose.



Concerns About Preclearance Are Not Evidence of Discriminatory Purpose

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REASONS TO SUPPORT SB362 AS FILED

- (1) This bill improves security in election process but is not as restrictive as Indiana and Georgia. There is less chance of disenfranchising elderly, poor, or minority voters.
- (2) This is a compromise bill that is basically the same bill that passed the House and the Senate State Affairs Committee last session.
- (3) Senators Fraser, Williams, and Duncan support this version of the bill, and are explaining it to members of Senate and House.
- (4) Potentially gets support from conservative House Democrats (Ritter, Hopson, and Homer) and undecided House Republicans (Merritt and Jones).
- (5) Increases chances of federal pre-clearance (because many forms of ID are acceptable, and provisional ballot procedure is less burdensome).

(1) This bill improves security in election process but is not as restrictive as Indiana and Georgia. There is less chance of disenfranchising elderly, poor, or minority voters.

(5) Increases chances of federal pre-clearance (because many forms of ID are acceptable, and provisional ballot procedure is less burdensome).



Concerns About Preclearance Are Not Evidence of Discriminatory Purpose

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PL272

9/2/2014

2:13-cv-00193

From: Jonathan Stinson
Sent: Saturday, January 22, 2011 4:54 PM
To: 'lawyer119@aol.com'; Vroee Jackson
Subject: Fw: preclearance
Attachments: VOTE - DOJ review.docx

Jonathan Stinson
jonathan.stinson@ser

From: Bryan Hebert
To: Jason Baxter; Janice McCoy; Jonathan Stinson
Cc: Blaine Brunson; Julia Rathgeber
Sent: Sat Jan 22 16:41:19 2011
Subject: preclearance
Attached is a memo

Obama DOJ. The b
acceptable photo ID
state govt, or local
passed last session:
agency or institution
state."

Of course, it is also a
the DC District Court

Bryan Hebert
Deputy General Counsel
Office of the Lieutenant
312-463-0001

From: Bryan Hebert
To: Jason Baxter; Janice McCoy; Jonathan Stinson
Cc: Blaine Brunson; Julia Rathgeber
Sent: Sat Jan 22 16:41:19 2011
Subject: preclearance

Attached is a memo I've prepared assessing the chances of a Texas photo ID law being pre-cleared by the Obama DOJ. The bottom line: doubtful. To increase our chances, we might consider adding a longer list of acceptable photo IDs. I'd suggest using the language in Georgia's law (ie. any ID issued by the federal govt, state govt, or local govt within the state). At a minimum, we might use the language used in our bill that passed last session: "a valid identification card that contains the person's photograph and is issued by: (A) an agency or institution of the federal government; or (B) an agency, institution, or political subdivision of this state."

164
Hebert

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Evidence of In-Person Voter Fraud

- ▶ There is no requirement that the Legislature needed concrete evidence before it enacted SB 14. *See Crawford*, 533 U.S. at 194.
- ▶ The Legislature had ample evidence before it that voter fraud existed.
 - Testimony before the House Select Committee on Voter Identification and Voter Fraud regarding SB 14. (ROA.70559-61, 70638-39, 70701-04)
 - Testimony before Senate Committee of the Whole regarding SB 14. (ROA.73453)
 - Observations by the Carter-Baker Commission. (ROA.73501)
 - Testimony from prior legislative sessions regarding voter ID. (ROA.73453)